



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET  
LANSING

MICHELLE LANGE  
DIRECTOR

## FREEDOM OF INFORMATION ACT (FOIA) RESPONSE

January 17, 2023

Royce Humm  
Michigan Association of Retired School Personnel (MARSP)  
1001 Centennial Way, Suite 401  
Lansing, MI 48917

Dear Royce Humm:

This notice is in response to your request dated January 17, 2023 (attached), for information under the Freedom of Information Act (FOIA), MCL 15.231 et seq. Your request was received by the Department of Technology, Management and Budget, Office of Retirement Services on January 17, 2023.

You requested: Information on members of the Michigan Public School Employees' Retirement System (MPERS) that retired effective January 1, 2021 through August 31, 2022:

1. First Name
2. Middle Name/Initial
3. Last Name
4. Zip Code
5. Org they retired from
6. Date of Retirement

The following action has been taken in response to this request:

**REQUEST GRANTED IN PART.** The ORS will provide you with first name, middle initial, last name, organization retired from, and date of retirement. The ORS interprets "organization retired from" to mean the last organization that reported wages for the member.

Under section 4(4) of the FOIA, MCL 15.234(4), a public body is required to provide a detailed itemization, which is attached, that clearly lists and explains the allowable charges, where applicable, for the necessary copying of a public record for inspection;

**Royce Humm**

January 17, 2023

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actual mailing costs; actual incremental cost of duplication or publication; including labor; and the cost of search, examination, review, and deletion and separation of exempt from nonexempt information, which compose the total fee used for estimating and charging purposes.

To begin processing this request, the DTMB requires a one-half good faith deposit of \$275.01 based on an estimated total cost of \$550.02 as permitted under section 4(8) of the FOIA, MCL 15.234(8). Failure to charge would result in an unreasonably high cost to the DTMB in this particular instance because employees must be taken away from pending work to process the request and expend additional time to complete regularly assigned departmental work.

As set forth under section 4(14) of the FOIA, MCL 15.234(14), if a fee appeal has not been filed under section 10a of the FOIA, MCL 15.240a, the DTMB must receive the required deposit within 45 days after the requester's statutorily-determined receipt of this notice, which, in this case, is March 4, 2023; otherwise, the FOIA request will be considered abandoned and the Department will not be required to fulfill the request.

Upon receipt of the deposit payment, either a check made payable to the State of Michigan and sent to the FOIA Coordinator, Department of Technology, Management and Budget, 320 South Walnut St., P.O. Box 30026, Lansing, MI 48933, or a credit card payment at: [www.thepayplace.com/mi/dtmb/foia](http://www.thepayplace.com/mi/dtmb/foia), the DTMB will complete the processing of the request within an estimated 15 business days. Section 4(8) of the FOIA also provides that while the time frame estimate is nonbinding upon the public body, the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on the state's public policy set forth in section 1(2) of the FOIA, MCL 15.231(2), and the nature of the request in the particular instance.

The DTMB will issue a written notice of the balance due, the statutory basis for exemptions, if any, and the statutory remedies, if applicable. After receipt of the balance due, copies of the records will be provided to you within three business days.

**REQUEST DENIED IN PART:** Employee zip codes beyond the first two digits are being withheld from public disclosure under section 13(1)(a) of the FOIA, MCL 15.243(1)(a), which provides for the nondisclosure of "[i]nformation of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

In raising the privacy exemption, the ORS relies on *Mager v Dep't of State Police*, 460 Mich 134 (1999), and *Stone Street Capital, Inc v Michigan Bureau of State Lottery*, 263 Mich App 683 (2004).

The *Mager* Court noted that disclosure under the FOIA of personal information about a private citizen contained in a governmental file would constitute a clearly unwarranted invasion of the individual's privacy when disclosure "reveals little or nothing about an agency's own conduct." The Court further observed that "the only relevant public interest in disclosure to be weighed in this balance is the extent to which disclosure would serve the core purpose of the FOIA, which is contributing significantly to public understanding of the operations or activities of the government." *Mager* at 145-146 (emphasis and citations omitted).

Furthermore, the FOIA does not permit a public body to consider the requesting person's identity and motivation or purpose for making the request or the intended use of the information. And the FOIA provides no mechanism to prevent the ongoing dissemination of the information after an initial disclosure under the act. *State Employees Ass'n v Dep't of Mgt and Budget*, 428 Mich 104, 125-126 (1987); *Kestenbaum v Michigan State Univ*, 414 Mich 510, 528 (1982).

Thus, if the ORS were to release the personal information to the requester in this instance, it generally would have to release the information to all requesters and would have no means to ensure that the personal information is used only for benign purposes. Personal information publicly disclosed to the world at large under the FOIA, could result in the threat to or endangerment of the individuals. *Stone Street Capital, Inc* at 691. Each and every release of this information would result in "a clearly unwarranted invasion of an individual's privacy." MCL 15.243(1)(a).

**As to the denial determination, pursuant to section 10 of the FOIA, you may do the following:**

1. Appeal this decision in writing to the Director of the Department, Michelle Lange, Elliott-Larsen Building, 320 South Walnut, P.O. Box 30026, Lansing, Michigan 48909. The writing must specifically state the word "appeal" and must identify the reasons you believe the denial should be reversed. The head of the department must respond to your appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your appeal may be extended by 10 business days.
2. File an action in the Court of Claims within 180 days after the final denial determination. If you prevail in such an action the court is to award reasonable attorney fees, costs, disbursements, and possible damages.

**ADDITIONAL COMMENTS:**

The Department's written procedures and guidelines and a summary can be viewed at: [www.michigan.gov/foia-dtmb](http://www.michigan.gov/foia-dtmb).

**Royce Humm**

January 17, 2023

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Sincerely,

A handwritten signature in dark ink, appearing to read "Sarah H.", is positioned below the word "Sincerely,".

Sarah H.  
Freedom of Information Act Assistant Coordinator  
Michigan Office of Retirement Services

Enclosure(s)

**FREEDOM OF INFORMATION ACT RESPONSE  
BILLING INVOICE**

Michigan Department of Technology, Management and Budget

**DTMB-0050 Revised 6/27/2022**

If payment is required as indicated in the accompanying letter, requested information will not be released until the payment described below is received. Please call the above DTMB contact person or return this form if you decide you do not wish to receive this information. After 45 days it will be assumed that you no longer require the requested documents.

**SECTION 1. REQUESTOR INFORMATION**

1. Requestor Name

Royce Humm- MARSP

2. Requestor Address

1001 Centennial Way, Suite 401  
Lansing, MI 48917

**SECTION 2. BILL CALCULATION**

1. Labor – Searching, Examining, Review, Deletion & Separating Exempt from Non-Exempt

Labor involved	Hours X (times)	Wage Rate (includes up to 50% fringes)	\$ 550.02
Data Pull	2.00	39.65	
Data Review	16.00	29.42	

2. Postage Actual Cost (put zero if picking up documents)

\$

3. Duplicating

Labor Hours \_\_\_\_\_ X (times) \_\_\_\_\_ Wage Rate (including up to 50% fringes) \$

\$ 0.00

Paper: Number of pages \_\_\_\_\_ @ \$ .10 per sheet

4. Other Costs

\$ 0.00

\$ \_\_\_\_\_ Description \_\_\_\_\_

**Total** \$ **\$550.02**

**Deposit\*** \$ **275.01**

\*NOTE: IF A DEPOSIT IS REQUESTED, THE INDICATED AMOUNT IS A BEST ESTIMATE ONLY. THE ACTUAL COST MAY VARY FROM THIS AMOUNT. **THEREFORE, PLEASE PAY THE DEPOSIT AMOUNT ONLY AT THIS TIME.**

5. Payment

**Make check or money order payable to: State of Michigan**

**Mail check to:**

DTMB FOIA Coordinator  
Director's Office 2<sup>nd</sup> Floor  
320 S. Walnut St.  
Lansing, MI 48933

**Payments can also be made online, at:**

[www.thepayplace.com/mi/dtmb/foia](http://www.thepayplace.com/mi/dtmb/foia)

**Your invoice number is:** 16

Return a copy of this invoice with your check

DISTRIBUTION: Requestor (2); Agency; Office of Financial Services; DTMB FOIA Coordinator